

12/20/21, 9:19 AM

3- Explanation and Request - Google Docs

United States Courts
Southern District of Texas
FILED

DEC 20 2021

Nathan Ochsner, Clerk of Court

United States District Court
For The
Southern District Of Texas

Wayne Smith

Plaintiff

V.
David Hittner
and MTGLQ Investors, LP

Civil Action No.
421-cv-03079 /NOS 440

Defendant(s)

Plaintiff's Main Response, Defence And Motion
To Defendant
Judge David Hittner's Motion

1- Lawsuits Can Be Brought Against a "Judge's individual" capacity.

As the courts know when lawsuits are brought against federal officials, they must be brought against them in their "individual" capacity, not their official capacity. The theory appears to be that when federal officials perpetrate constitutional torts, they do so ultra vires and lose the shield of sovereign immunity. Williamson v. U.S. Department of Agriculture, 815 F.2d. 369, ACLU Foundation v. Barr, 952 F.2d. 457, 293 U.S. App. DC 101, (CA DC 1991).

2- Judge Hittner's Motion Concerning Entire Case.

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The Plaintiff filed a Default judgment against David Hittner in his "individual capacity" and MTGLQ Investors LP however being one personage David Hittner as individual forwarded the Complaint to Judge Hittner's Attorney(s) and in this process fulfilled, the" Certificate of Service", to both, David Hittner as Individual and as Judge being served.

Whereas Plaintiff desires to note that also MTGLQ, LP were served and whereas by Default, MTGLQ, Investors, LP owe the Defendant in what he prayed in his Complaint. Plaintiff understands as denoted below that the "Individual and Judge, known as David Hittner" according to the following is only accountable to the Court which the Plaintiff recognized in his original desired Default Order and slightly updated desired order which recognizes the Court has the final verdict on all parts of Civil Rights Matters.

3- Plaintiff's " Bivens Action" and Case Settlement Motion.

The Civil Rights Violations case the Plaintiff has filed could have been reckoned under Federal Rule Civil Procedure 12 (b) (e) and furthermore, it shows itself in agreement with VIII-5 since the Plaintiff asks for such other relief as the Court deems just and proper, as the Settlement for this Entire Case whereas this case is in the spirit of, "A Bivens Action Case", since the enabling legislation is found under Title 28 U.S. Code § 1331. The court knows under Title 28 U.S. Code § 1331 it grants authority to federal district courts with

original subject matter jurisdiction over "all civil actions arising under the Constitution, laws, or treaties of the United States." This stipulation of law gives courts total power to control a settlement concerning Civil Rights Violations settlements whether anyone accepts their decisions or not however in recognition of the words of Justice Louis Brandeis, the Plaintiff humbly and respectfully requests that the court adheres to her words as follows:

"Decency, security and liberty alike demand that government officials shall be subjected to the rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for the law, it invites every man to come a law unto himself. It invites anarchy. (United States v. Olmstead, 277 U.S. 438 (1928).

Plaintiff has presented his case and Motion For The Order because of the default actions of the defendant, MTGLQ Investors, LP, and toward (Judge/Individual) David Hittner on the basics of questions raised under both Federal and Constitution Law.

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In the defense of his case, Plaintiff respectfully asks and motions for the court to rule in favor of Plaintiff's Offer of Settlement and Order presented to the court this day.

Respectfully Submitted,

Wayne Smith

Plaintiff, Wayne Smith

Respectfully Submitted By:

Wayne Smith, ProSe
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Houston, Texas 77084
Counsel for Plaintiff- Wayne Smith